Application No. 09/954,509   Reply to Office Action

REMARKS

The Office Action dated January 4, 2005, and the references cited therein have been considered. Claims 1-3 were previously pending. Claims 1-3 have been amended to make clear the license management role (as opposed limiting access to restricted resources by licensed requestors) of the license manager in the context of the claimed invention. New claims 4-20 have been added in this response. No claims currently stand allowed. Applicants request favorable reconsideration of the previous rejection in view of the clarifying amendments and consideration of the newly submitted claims. Please charge any fee deficiencies to Deposit Account No. 12-1216.

Summary of the Rejections in View of the Prior Art

Claims 1-3 are rejected as obvious under 35 U.S.C. Section 103(a) over Barber et al. U.S. Patent No. 5,390,297 in view of Flowers et al. U.S. Patent No. 5,533,174 and alleged Applicants' Admitted Prior Art (AAPA).

Applicants traverse the Office Action's grounds for each and every rejection for at least the reasons set forth herein below. Applicants address the specific rejections in the order they arise in the Office Action.

Applicants traverse the rejection of claim 1. Applicants' Invention is directed to a way in which a portal server grants, tracks the quantity of, and persists on a user-session basis a set of concurrent licenses. According to the invention recited in claim 1, a license manager is called upon to manage *granting* licenses to users. The task of granting licenses based upon need/availability (recited in claim 1) differs from allowing/denying access to restricted resources based upon ownership of a license -- described in the Flowers '174 patent at col. 5, lines 17-23. According to the invoking step of claim 1, when an identified user requests access to a resource (e.g. a portal server page) that requires a license, an executable instruction associated with the resource invokes the concurrent license manager.

Once invoked, the license manager determines, during the "first confirming" step, *whether* the requestor needs a license. During the "second confirming step," the license manager determines whether a session-based concurrent license is available for allocation to a requestor. In the "adding" step the manager adds an ID associated with the requestor to a

list of concurrent users. Thus, the allocated concurrent license is persisted such that at a later time the license manager utilizes the list and a furnished requestor ID to determine whether another concurrent license is needed for a particular identified user during the first confirming step. Applicants amendments to claim 1 are intended to clarify the role of the invention in the *granting* of concurrent licenses to identified users that are in need of such licenses – as opposed to restricting access to the particular resources available to requestors in possession of such licenses. Other aspects of the claimed invention clarified by the present amendment include the session-based persistence of the license grant as well as the nature of the list to which the identified source is added.

In contrast, the Barber '297 patent discloses a method for limiting the number of concurrently executable copies of a computer program on a network. The Barber license manager keeps track of the number of concurrently licensed copies of a computer program on a network, the location (i.e., nodes) of the licensed copies on the network (see, Col. 2, lines 37-54). However, the Barber license manager neither discloses nor suggests tracking the licensed copies of the computer program on anything other than a physical location basis. Furthermore, as indicated in the summary of the invention at Col. 2, lines 10-18, Barber does not disclose a code within a sequence of commands associated with the requested resource that invokes the license manager. In Barber, the resource is a computer program, and the computer program is not executed until *after* a license has been granted to an intended destination node upon which the computer program will subsequently run. The Barber reference does not disclose an association between a code associated with the requested source and invocation of the license manager.

The Flowers '174 patent teaches limiting access to resources to holders of an appropriate license – as opposed to managing the granting of concurrent licenses to requestors in need of such licenses. Flowers teaches denying the requests of users that do not possess an appropriate license. The claimed invention, and in particular the first confirming step, recites a license manager confirming that an identified source associated with a request *needs* a concurrent user license. As such, while Flowers indeed discloses testing whether a client is licensed, its purpose (i.e., denying access to a resource as opposed to granting one of potentially multiple available session-based concurrent licenses) renders any combination with Barber of little relevance to the presently recited invention.

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Applicants traverse several of the stated grounds for the rejection of claim 1 as obvious over Barber in view of AAPA and Flowers. A number of the recited elements are not even disclosed in the cited references. Furthermore, combining Barber, AAPA and Flowers renders a method for denying access to requested resources based upon the absence of a license rather than, as recited in claim 1, granting a license to an identified source of a request based upon the absence of current license (and the presence of an available license). Thus, the claimed invention would not have been obvious to one of ordinary skill in the art at the time of the invention.

As an initial matter, Barber neither discloses nor suggests a *session-based concurrent license* as recited in claim 1. As previously explained, the licensed computer software is loaded onto a node and stays there indefinitely. Nowhere does Barber suggest that the license grant is tied in any way to a user session. In the event the rejection is not withdrawn, Applicants request specific identification of the teaching of a session-based concurrent license grant in the Barber patent.

The Barber patent neither discloses nor suggests the recited "adding" step. In particular, rather than disclose adding the identified source of a request to a list of concurrent license users, the Barber patent discloses (at column 2, lines 47-54) maintaining a list of license numbers corresponding to the resource (computer program) copies. The source of the request is not saved by the license manager. For at least this additional reason, the claimed invention is neither disclosed or suggested by the combined teachings of the prior art as applied by those skilled in the art at the time of the invention.

Furthermore, in accordance with claimed invention, the license manager is invoked by a code within a set of commands associated with the requested resource. However, nowhere does the Barber reference disclose any such association between the requested computer software copy and a code within commands in the computer software. For at least this additional reason, claim 1 cannot be obvious over the combined teaches of the prior art cited in the Office Action.

With regard to the teachings of the AAPA, Applicant agrees that administering a user session providing access to multiple resources via a portal server was known at the time of the invention. However, Applicants traverse the assertion by the Office Action that such teachings would suggest, to one skilled in the art at the time of the invention, to replace the computer software management infrastructure disclosed in Barber with a portal server. If

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anything, the combination of Barber and AAPA merely suggests distributing the computer software copies, and administering the total number of copies, via a portal server.

Applicants traverse the Office Action's assertion that Flowers, in combination with the teachings of Barber and AAPA, render the claimed invention obvious. As explained previously above, the invention recited in claim 1 addresses how individual ones of a set of concurrent user licenses are *granted* and *persisted* by a license manager. The license manager initially determines whether a requestor *needs* the license. This differs from the Flowers reference wherein a server determines whether the requesting client is licensed. As such, the role of the license manager in Flowers differs substantially from the claimed invention wherein the license manager's role is to determine whether the requestor *needs* a license for the purpose of *granting* a license (as opposed to denying services associated with the request). Therefore, incorporating into Barber and AAPA the teachings of Flowers with regard to denying access to unlicensed users by a server does not render the claimed invention. In particular, such combination neither discloses nor suggests the recited license *granting* role – to requestors in need of such licenses – and licensed user list maintenance role carried out by the license manager through the steps recited in claim 1.

Applicants traverse the rejection of claims 2-3 for at least the reasons set forth above for claim 1 as well as the additional reasons set forth herein below.

Applicants traverse the rejection of claim 3. In particular Applicants emphasize that the Barber reference teaches providing an entire copy of a software program to a client node while the claimed invention is carried out for the purpose of providing access to a variety of resources via web pages. It hardly seems appropriate to assign a session-based concurrent license for the purpose of downloading a copy of a computer program that will remain on the destination computer node long after a user terminates the download session. Thus, Applicants note the inappropriate nature of combining the teachings of Barber with AAPA to support an obviousness rejection.

Applicants furthermore traverse the rejection of claim 2 for at least the reason that the Barber reference neither discloses nor suggests maintaining a set of concurrently licensed sessions (such would imply there is some enforced limit on the number of concurrent

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downloading streams of the computer program). However, Barber does not even address the possibility of maintaining multiple simultaneous download sessions.

In addition to the originally pending claims 1-3, applicants have added a number of additional claims addressing other patentable aspects of the disclosed session-based concurrent licensing arrangement.

Conclusion

If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

Mark Joy, Reg. No. 35,562
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, Illinois 60601-6780
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

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